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| COLBERT, ELLA | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeciipaw.com

Office Action Summary

Application No.

10/721,432

Applicant(s)

ALBAUGH ET AL.

Examiner

Ella Colbert

Art Unit

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claim 78 is pending. Claim 77 has been cancelled and new claim 78 has replaced claim 77 in the communication filed 01/16/09 entered as Amendment with filing for an RCE.
2. The 35 USC 101 rejection has been overcome by Applicants' cancellation of claim 77 and this rejection is considered moot.
3. The 35 USC 112, second paragraph rejection has been overcome by Applicants' cancellation of claim 77 and is considered moot.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/16/09 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 78 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The following recitation is not found in the specification: "calculating using the rule". "Calculating, composition rule table 130" is found in the specification. "First format" and "second format" are not found in Applicants' Specification. "Spreadsheet format" and "second entry are found in Applicants' Specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 78 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear and indefinite from reading the specification and viewing the drawings what Applicants' mean by "raw record" and "raw records".

It is unclear how the rule is obtained for the plurality of raw records and a calculation is performed using the rule for the plurality of raw records because there has not been anything prior to what would cause one to obtain a rule for the plurality of records or perform a calculation using the rule for the plurality of records. If the usage data is processed into a raw record it is unclear how the processing takes place prior to the raw record being saved into a record table, etc.

It is vague and indefinite how the determination is made for a particular unit of work's status changes to a closed status. Is this determination based on the saving of the raw record in the record table, etc.?

The last claim limitation recites "storing the output with the raw records". It is vague and indefinite what output is being stored with the raw records. Do Applicants' mean the consumption of the resource for the particular unit of Work?

Claim 78 also recites "raw record" and "a record table". It is unclear and indefinite what the difference is in a "raw record" and "the record table" from reading the Specification and reviewing the drawings. Do Applicants' mean the "raw record" is sent and contains "the raw record" in "a record table" of the database?

It is unclear and indefinite what Applicants' mean by "a first key" and "a second key"? Do Applicants' mean "the first key" and "the second key" are a group of one or more attributes identifying a unique row in a relation? Two or more attributes or attribute collections that can be a key are called primary keys and whichever of the candidates is selected to be the key is called the primary key.

It is vague and indefinite whether a person or a computer or some device is "gathering a plurality of usage data" and "processing the usage data".

It is also vague and indefinite how the determining when a particular unit of work's status changes to a closed state" and what is responsive to the particular unit of work's status changing to the closed status". Is a person or a machine or device making this determination and being responsive to the particular unit of work's status change?

How is a rule obtained when there is nothing related to a rule relating to the raw records prior to this claim limitation? Is this rule a business rule or an attribute rule or a database rule?

How is the calculating using the rule performed for each of the raw records? Is the calculation based on the consumption of the resource for the particular unit of work? Is the calculating performed by a person or a computer?

"An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed ...". *In re Zletz* 13 USPQ2d 1320 (Fed. Cir. 1989).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 78 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent a method claim must (1) be tied to another statutory class of invention (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)). A method claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claim 78 fails to meet the above requirements since there is not a sufficient tie to another statutory class.

Although claim 78 recites "a database", "a web services interface" and "storing output with the raw records in the database", this is not enough to overcome a 35 USC 101 Rejection because (1) a database in the claim limitations just contains text; and (2) a web services interface can be interpreted as a piece of software.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,980,973) Karpenko in view of (US 6,199,068) Carpenter and further in view of

"Database Processing; Fundamentals, Design, and Implementation"; Fifth Edition; by David M. Kroenke- Chapters 2, 3, and 5, here after Kroenke.

Claim 78. Karpenko discloses, A computer implemented method for processing a plurality of data into an output summarizing a consumption of a resource for a particular unit of work in an on-demand service environment, comprising:

gathering a plurality of usage data, wherein each of the plurality of usage data measures a consumption of a resource in the on-demand service environment;

sending the usage data to a database through a web services interface (col. 4, line 36-col. 5, line 10); processing the usage data into a raw record having a required information section and an attributes section (col. 5, lines 11-45); saving the raw record into a record table, an attribute table, and a unit of work table, wherein the record table is linked to the attribute table by a first key, and the record table is linked to the unit of work table by a second key (col. 6, lines 3-11 and col. 7, line 7-col. 8, line 58- See lines 47-55 in col. 7- a billing address, an account holder, and a currency code are attributes)); and calculating, using the rule for each of the plurality of raw records, the output summarizing the consumption of the resource for the particular unit of work (col. 10, line 56-col. 11, line 18 –performs calculations and the utility bill is the summary); and storing the output with the raw records in the database, wherein the format of a first format of the output is the same as a second format of the raw records (col. 11, lines 36-52).

Karpenko failed to disclose, determining when a particular unit of work's status changes to a closed status, and responsive to the particular unit of work's status changing to the

closed status, identifying a plurality of raw records associated with the unit of work and obtaining a rule for each of the plurality of raw records.

Carpenter does not expressly disclose, determining when a particular unit of work's status changes to a closed status, and responsive to the particular unit of work's status changing to the closed status, identifying a plurality of raw records associated with the unit of work and obtaining a rule for each of the plurality of raw records. However, Carpenter does disclose workflow completion and final status (interpreted as being closed) and reading a file then displaying the results to the user in col. 62, lines 58-67. Also, Kroenke discloses in chapter 2, page 28 –tables, page 30-Fig. 2-3 (Student table); pages 32-35 and the last para. On page 40, page 41 (Fig. 2-10) shows a report; page 42 (fig. 2-11) shows developing a report with MS Access and page 48 (fig. 2-15 shows two related reports in the section entitled “creating the database table”. Chapter 3 pages 55-74 discuss the “Entity-Relationship Model” which includes ttributes on page 56 and business rules on pages 65- para.'s 7-10 and 66-para. 1. Chapter 5 discusses the Relational Model, pages 125, 126, 128-132, 134-136, 138-144, 147, 149, 150, and 152 discusses keys, attributes, and tables are linked in a E-R diagram. Therefore, it is well known in the database art to have relational diagrams, tables, attributes, keys, business rules, and databases with reports for easy access when needed. Applicant's types of tables are a design option because the tables in a database can be any type of tables.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suh (US 2002/0161536) disclosed an Internet energy meter.

Yang-Huffman (US 2003/0115316) disclosed a network usage meter.

Drucker et al (US 2003/0123442) disclosed usage metering of network devices.

Tayebnejad et al (US 7,113,932) disclosed attributes, databases, tables, and data records.

David M. Kroenke, "Database Processing Fundamentals, Design, and Implementation" discloses in the Glossary section the definitions of the following: attribute, database, data base, key, record, relation, relational database, relational data model, relationship, and report.

Sneeringer (US 6,618,709) disclosed the web-based monitoring of energy-based usage.

Rhodes (US 6,961,716) disclosed network usage analysis.

Glynn B. Giacone; "Seek and Fine-Tune: Getting the Most from Client-Server Transactions; Controlling a smooth-running client-server application requires creative manipulation of an RDMBS's instrumentation "metrics." An expert shows how to fin-tune workload performance" disclosed a logical business unit of work and a database on page 2-section entitled "Seeking a transaction".

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3696

April 09, 2009